Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Bhutan under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the initial report of Bhutan (CRC/C/OPSC/BTN/1) at its 2206th meeting (see CRC/C/SR.2206), held on 18 May 2017, and adopted the following concluding observations at its 2221st meeting, held on 2 June 2017.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/BTN/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high level and multisectoral State party delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's third to fifth periodic reports under the Convention on the Rights of the Child (CRC/C/BTN/CO/3-5) and those on the report of the State party submitted under the Optional Protocol to the Convention on the involvement of children in armed conflict (CRC/C/OPAC/BTN/CO/1), adopted on 2 June 2017.

II. General observations

Positive aspects

4. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption in 2012 of the Child Care and Protection Act in 2011, the Child Adoption Act, and in 2013 of the Domestic Violence Prevention Act.

5. The Committee also welcomes the progress made in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including the National Plan of Action for Child Protection as part of the eleventh Five Year Plan (2013-2018).

* Adopted by the Committee at its seventy-fifth session (16 May-2 June 2017).

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III. Data

Data collection

6. The Committee notes that the Royal Bhutan Police receives and processes cases involving offences against children and records profiles of repeat offenders. It also notes there have been no reported cases of sale of children, child prostitution and child pornography in the State party. The Committee is however concerned about the existing challenges and limitations in collecting data, as acknowledged by the State party itself, including the limited knowledge of children's rights and protection issues and the absence of a comprehensive mechanism for the collection of disaggregated data for child protection and care.

7. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol. The data should be disaggregated by sex, age, nationality and ethnic origin, region and socioeconomic status, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol, particularly children from economically disadvantaged situations, children of single parents and children of parents who are addicted to gambling. Data should also be collected on the number of reported cases, investigations and prosecutions carried out and sentences issued, disaggregated by the nature of the offence.**

IV. General measures of implementation

Legislation

8. The Committee notes the enactment of legislation regarding children's rights but is concerned that current laws do not address effectively all acts relating to the sale of children as defined in articles 2 and 3 of the Optional Protocol.

9. **The Committee recommends that the State party ensure that all acts and activities related to the sale of children as defined in articles 2 and 3 of the Optional Protocol are fully criminalized under its criminal and child rights laws.**

Comprehensive policy and strategy

10. The Committee is concerned that the State party has not developed a comprehensive policy and strategy on the rights of the child under the Optional Protocol.

11. **The Committee recommends that the State party develop a comprehensive policy and strategy on the rights of the child, encompassing all children and all issues covered under the Optional Protocol, allocate suitable human and financial resources for its implementation and, in doing so, take into account the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, in Yokohama, Japan, in 2001 and in Rio de Janeiro, Brazil, in 2008.**

Coordination and evaluation

12. The Committee is concerned about the lack of clarity regarding coordination of the various entities working on children's rights issues, including the National Commission for Women and Children, the National Child Welfare Committee, the Ministry of Home and Cultural Affairs, the Ministry of Labour and Human Resources, the Ministry of Health, the Commission for Monastic Affairs, the Royal Bhutanese Police and the Royal Court of Justice. The Committee is also concerned that the National Child Welfare Committee, established by the Child Care and Protection Act, does not have the mandate to cover the rights of all children and is only responsible for children considered to be in "difficult circumstances".

13. **With reference to paragraph 7 of its concluding observations on the State party's combined third to fifth periodic report under the Convention, the Committee recommends that the State party ensure better coordination among the various entities working on developing and implementing children's rights policies, and establish a government entity with the clear mandate to provide leadership and effective general oversight for the coordination and evaluation of activities on children's rights under the Convention and its Optional Protocols across sectoral ministries and at all levels of government.**

Dissemination and awareness-raising

14. The Committee regrets the limited information on dissemination and awareness-raising activities on the Optional Protocol.

15. **The Committee recommends that the State party develop and implement awareness-raising programmes, campaigns and dissemination activities to ensure that the provisions of the Optional protocol are widely known by the general public, including parents and children, government officials and professionals working with and for children.**

Training

16. The Committee regrets the limited information on training programmes and activities regarding the Optional Protocol.

17. **The Committee recommends that the State party develop and implement training programmes on their responsibilities under the Optional Protocol for all professional groups working with and for children, including law enforcement officials, teachers, health personnel, social workers and personnel of childcare institutions, government officials at national and local levels and religious authorities.**

Allocation of resources

18. The Committee is concerned about the absence of information regarding the funds allocated to combating the sale of children, child prostitution and child pornography, including preventing offences under the Optional Protocol and caring for, rehabilitating and reintegrating child victims.

19. **The Committee recommends that the State party ensure the allocation of resources adequate for combating the sale of children, child prostitution and child pornography, preventing offences under the Optional Protocol and providing appropriate care for child victims, and present information in this regard in its next report to the Committee.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))

Measures adopted to prevent offences prohibited under the Protocol

20. The Committee welcomes the mapping and assessment workshop held in 2011, the establishment of a child protection system and the creation in 2004 of the organization Respect, Educate, Nurture and Empower Women and work it carries out with girls and women in disadvantaged situations. It also welcomes the Youth Development Fund on children's rights and child protection. The Committee is however concerned that issues related to the Optional Protocol have not been fully integrated into activities aimed at preventing offences under the Optional Protocol, namely, outreach and awareness programmes, community and counselling services and in the Druk Adolescent Initiative on Sexual Awareness Network, which aims at incorporating children's issues into national policies.

21. **The Committee recommends that the State party integrate into its children's rights and protection programmes and initiatives actions specifically aimed at**

preventing offences under the Optional Protocol, including through public policy measures to address the root causes triggering children's vulnerabilities to those offences, in particular in the child protection system, and in the work of the organization Respect, Educate, Nurture and Empower Women, the Druk Adolescent Initiative on Sexual Awareness Network and the Youth Development Fund.

Child sex tourism

22. The Committee is concerned about children, especially girls from remote villages and from disadvantaged socioeconomic backgrounds, working in *drayangs* (entertainment centres) being vulnerable to child sex tourism.

23. **The Committee recommends that the State party conduct a study on the situation of children, especially girls from remote villages and from disadvantaged socioeconomic backgrounds, working in *drayangs* (entertainment centres), to identify potentially exploitative situations and, on the basis of those findings, develop and implement preventative and rehabilitation measures. It also recommends that the State party conduct advocacy with the tourism industry on the harmful effects of child sex tourism, widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

Measures to prevent and address online child sexual exploitation and abuse

24. The Committee is concerned about the risk of online child sexual exploitation and abuse, particularly in the context of increasing and widespread use of social media in the State party.

25. **With reference to the Human Rights Council resolution 31/7 on the rights of the child, in which the Council addresses information and communications technologies and child sexual exploitation, and to the outcomes of the 2014 London and 2015 Abu Dhabi "We Protect" summits, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, in close collaboration with relevant industries and organizations, consisting at a minimum of:**

(a) A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity and specific analysis, research and monitoring capabilities;

(b) A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness on online behaviour and safety, and for gaining knowledge of and reporting online child sexual exploitation and abuse offences;

(c) A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary and a national database linked to the International Criminal Police Organization (INTERPOL) database.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

Existing criminal or penal laws and regulations

26. The Committee is concerned that the criminal law in the State party does not define and criminalize sale of children as defined in article 3 of the Optional Protocol.

27. **The Committee recommends that the State party, in conformity with article 3 of the Optional Protocol, explicitly define and criminalize as sale of children the**

offering, delivering or accepting, by whatever means, of a child for the purpose of the sexual exploitation of the child, the transfer of organs of the child for profit and the engagement of the child in forced labour.

Liability of legal persons

28. The Committee notes that general laws cover liability of legal persons but is concerned they do not specifically define how legal persons, including corporations, may be held liable for acts or omissions related to the sale of children, child prostitution and child pornography.

29. **The Committee recommends that the State party revise its legislation to ensure that legal persons can be held liable for offences in conformity with article 3 (4) of the Optional Protocol.**

Extraterritorial jurisdiction and extradition

30. The Committee is concerned that there are no legal provisions governing extraterritorial jurisdiction for offences under the Optional Protocol. The Committee notes that the High Court has the jurisdiction for purposes of extradition and that the Royal Government of the State party may extradite individuals under certain circumstances.

31. **The Committee recommends that the State party ensure that its legislation explicitly enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol and may consider the use of the Optional Protocol as a legal basis for extradition in the absence of an extradition treaty.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

32. The Committee welcomes the procedures established by the Child Care and Protection Act to protect the rights of child victims, including assessing their best interests and protecting their privacy. The Committee is however concerned about the limited capacity of professionals working with and for children, in particular the judiciary, the police, teachers, health personnel, social workers and monasteries, in identifying and addressing offences under the Optional Protocol. The Committee is also concerned about the lack of information regarding procedures to identify child victims and to ensure their right to redress.

33. **The Committee recommends that the State party:**

(a) **Develop and implement education and training programmes targeting the judiciary, the police, teachers, health personnel, social workers and monasteries about preventive measures and harmful effects of the offences in the Optional Protocol;**

(b) **Establish mechanisms and procedures for the early identification of child victims and prompt processing of cases of offences under the Optional Protocol, including by establishing cooperation processes between all relevant entities, and ensure that they have access to adequate procedures to seek compensation for damages from those legally responsible.**

Criminal justice system protection measures

34. The Committee is concerned about the lack of information regarding procedures to ensure that child victims are not treated as offenders.

35. **The Committee recommends that the State party provide child victims with adequate and explicit protection in the criminal justice system to ensure that they are**

not considered or treated as offenders and always have access to adequate legal assistance.

Recovery and reintegration of victims

36. The Committee notes the existence of residential facilities serving as emergency protection shelters for victims of violence but regrets the lack of information on clear procedures and standards for the care and protection of child victims of offences under the Optional Protocol, including the provision of free medical treatment and psychosocial support.

37. **The Committee recommends that the State party ensure that child victims of offences under the Optional Protocol have the necessary assistance for their physical and psychological recovery and social reintegration.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

38. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered by the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offenses.**

IX. Follow-up and dissemination

Follow-up

39. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the relevant Government ministries, the Parliament and to national and local authorities for appropriate consideration and further action.**

Dissemination of concluding observations

40. **The Committee recommends that the report and written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol, its implementation and monitoring.**

X. Next report

41. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**